

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ALFRED ALLEN HARPER,

Petitioner,

v.

Civil Action No. **3:14CV707**

DIRECTOR OF THE DEPARTMENT OF CORRECTIONS,

Respondent.

MEMORANDUM OPINION

Alfred Allen Harper, a Virginia inmate proceeding *pro se*, filed this petition for habeas corpus pursuant to 28 U.S.C. § 2254 (§ 2254 Petition,” ECF No. 1) challenging his convictions in the Circuit Court of the County of Henrico (“Circuit Court”). Respondent moved to dismiss and the Magistrate Judge recommended that the Court grant the Motions to Dismiss.¹ Thereafter, the Court overruled Harper’s Objections and granted the Motions to Dismiss. *See Harper v. Director, Dep’t Corr.*, No. 3:14CV707, 2016 WL 1054717, at *9 (E.D. Va. Mar. 10, 2016). The matter is before the Court on Harper’s Motion seeking relief under Federal Rule of Civil Procedure 59(e).

The United States Court of Appeals for the Fourth Circuit has recognized three grounds for relief under Rule 59(e): “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993) (citing *Weyerhaeuser Corp. v. Koppers Co.*, 771 F. Supp. 1406, 1419 (D. Md. 1991); *Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990)).

¹ Respondent filed two identical Motions to Dismiss.

Harper apparently relies upon the third ground for relief. Harper, however, fails to demonstrate that the Court committed a clear error of law or that alteration of the judgment is necessary prevent manifest injustice. Harper may not use Rule 59(e) to rehash arguments previously presented and rejected. *Id.* at 1082. Accordingly, Harper's Rule 59(e) Motion (ECF No. 39) will be DENIED. The Court will DENY a certificate of appealability.

An appropriate Order will accompany this Memorandum Opinion.

Date: 4/22/16
Richmond, Virginia

/s/ [Signature]
John A. Gibney, Jr.
United States District Judge